

CLARK COUNTY
FAMILY AND MEDICAL LEAVE POLICY
Effective February 1, 2013

Clark County will comply with all applicable state and federal laws concerning family and medical leave (FMLA). This policy describes the state and federal FMLA laws and addresses certain differences between the two laws. When both laws apply, the leaves under state and federal law will run concurrently and the provisions more beneficial to the employee will apply. Medical leaves that qualify under the FMLA will also run concurrently with leaves under worker's compensation, short term disability and other laws, as applicable and as allowed by law.

To qualify for FMLA, employees must be employed with Clark County for at least 12 months and have worked at least 1,250 hours in the preceding 12-month period (1,000 hours in the last 52 weeks for Wisconsin law). In order to be eligible for FMLA, employees must also be employed at a worksite where 50 or more employees are employed by the employer within 75 miles of that worksite.

Employees should direct any questions regarding FMLA leave to the Personnel Manager. Taking FMLA leave will not be used against an employee in any employment decision contrary to law. Employees on FMLA leave with Clark County may not engage in any other employment that is inconsistent with the reason for the employee's FMLA leave.

GENERAL LEAVE RIGHTS

Federal FMLA. Under the federal FMLA, eligible employees are allowed up to 12 workweeks of unpaid leave per 12-month period for the following reasons (see also Military family leave below):

- The employee's own serious health condition that makes the employee unable to perform the functions of his or her position
- To care for the employee's spouse, child or parent with a serious health condition
- For the birth of the employee's child, or placement of a child for adoption or foster care with the employee
- For incapacity due to pregnancy, prenatal medical care or child birth

Wisconsin FMLA. The Wisconsin FMLA permits eligible employees to take unpaid leave for the following reasons:

- 2 weeks for the employee's own serious health condition
- 2 weeks to care for the employee's spouse, domestic partner, child, parent or parent-in-law with a serious health condition
- 6 weeks to care for the employee's child after birth or adoption

Clark County will calculate the federal FMLA 12-month period as a rolling 12-month period measured backward from the date an employee uses any leave under this policy. The Wisconsin FMLA entitlement will run on a calendar-year basis. If

spouses are employed by Clark County, their combined total leave for the birth, adoption or foster care placement of a child, or to care for a parent with a serious health condition, is 12 weeks. Wisconsin FMLA in connection with birth or adoption of a child must start within 16 weeks of the birth of the child. Leave for birth, adoption or foster care placement must be concluded within 12 months of the birth, adoption or placement of the child.

Military Family Leave. Military family leave is part of the federal FMLA. Usage provisions of this FMLA policy, including employee notice provisions, certification requirements, and use of paid time off and intermittent usage, apply to military family leave as well.

There are two types of military family leave.

Qualifying Exigency Leave. Eligible employees with a spouse, son, daughter or parent on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation may use their 12-week FMLA entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings. The 12 weeks of leave afforded for a qualifying exigency is not in addition to the general 12 weeks afforded under the federal FMLA. An employee is entitled to no more than 12 total weeks of leave for any combination of personal, family or qualifying exigency military FMLA.

Servicemember Care Leave. Eligible employees may also take up to 26 weeks of leave during a single 12-month period to care for a child, spouse, parent or next of kin who is: a member of the Armed Forces and who is undergoing medical treatment, recuperation or therapy for a serious injury or illness that occurred in the line of duty; or a veteran who is undergoing medical treatment, recuperation or therapy for a serious injury or illness that occurred in the line of duty and who was a member of the Armed Forces (including a member of the National Guard or Reserves) during the five years preceding the date of the treatment. The 26 weeks of leave afforded for servicemember care is not in addition to the general 12 weeks afforded under the federal FMLA. Any other sort of FMLA taken will decrease the 26-week period. The 26 weeks is not annual; it is a one-time leave per the same cause of injury or illness.

Married Employees. Married employees who both work for the company are limited to no more than an aggregate of 26 weeks of leave between them for military family leave.

SERIOUS HEALTH CONDITION

A serious health condition is an injury, illness, impairment or physical or mental condition that involves:

- (1) Inpatient care in a medical care facility; or
- (2) Continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job or prevents a qualified family member from participating in school or other daily activities.

Continuing treatment by a health care provider includes:

- (1) A period of incapacity of more than three (3) consecutive full calendar days combined with at least two (2) visits to a health care provider or one (1) visit and a regimen of continuing treatment under the supervision of a health care provider (time limits apply to health care provider visits);
- (2) Any period of incapacity due to pregnancy or prenatal care;
- (3) Any period of incapacity or treatment for such incapacity due to a chronic serious health condition;
- (4) A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective; or
- (5) Any period of absence to receive multiple treatments by a health care provider or for a condition that would likely result in a period of incapacity of more than three (3) consecutive calendar days in the absence of medical intervention or treatment. (Under Wisconsin FMLA, the more than three (3) calendar days of incapacity requirement does not apply.)

NOTIFICATION AND CERTIFICATION

Whenever possible, employees must give at least 30 days' written notice of the need for FMLA leave. When 30 days' notice is not possible, employees are expected to give as much written notice as is practical. All requests for leave must be made on a Request for Leave form and forwarded to the Office of Personnel. The normal call-in procedures must also be followed for all FMLA absences.

Employees must give sufficient information to the employer to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, a family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave. Employees must also inform Clark County if the requested leave is for a reason for which FMLA leave was previously taken or certified.

Clark County may require an employee who is requesting FMLA leave to provide medical certification for the leave. Employees will have **15 days** in which to provide the certification, except in extenuating circumstances. If an employee fails to provide adequate certification in a timely manner, the employee's leave request or continuation of leave may be delayed or denied altogether. Clark County may require a second medical opinion at its expense regarding a serious health condition from a health care provider of its choice. If the first two opinions differ, employee may obtain a third opinion at Clark

County's expense from a mutually agreed upon health care provider. The third opinion shall be binding on the parties. Recertification and periodic reports regarding the employee's status and intent to return to work may also be required as allowed by law.

We will inform employees who have requested leave whether they are eligible for leave, specify any additional information needed, and inform the employee of his/her rights and responsibilities. If the employee is not eligible for leave, we will provide a reason for the ineligibility.

We will also inform eligible employees whether requested leave will or will not be designated as FMLA leave and the amount of leave that will be counted against the employee's leave entitlement.

Clark County may also designate any qualifying absences as FMLA usage. The employee will be notified of this designation.

INTERMITTENT LEAVE

An employee does not need to use FMLA leave entitlement in one block. An employee may be eligible to take intermittent leave or reduced schedule leave if medically necessary. Employees must make reasonable efforts to schedule leave for planned medical treatment so as to not unduly disrupt the employer's operations. In certain circumstances, Clark County may transfer an employee taking intermittent FMLA leave temporarily to a position with equivalent pay and benefits if the new position better accommodates the leave. Leave due to qualifying exigencies may also be taken in an intermittent basis. An Employer may deny the use of intermittent FMLA leave for the birth, adoption or foster placement of a child during the federal-only portion of their FMLA leave. (Under Wisconsin FMLA, the last increment of intermittent leave for the birth, adoption or foster placement of a child must begin within 16 weeks after the birth, adoption or placement of the child.) If spouses are employed by Clark County, their combined total leave for the birth, adoption or foster care placement is 12 weeks.

SUBSTITUTING EARNED TIME OFF

During the portion of an FMLA leave covered by Wisconsin law, employees may elect to, or not to, substitute accrued paid leave for unpaid FMLA leave. During the federal-only portion of an FMLA leave, the County shall require employees to substitute accrued paid time off and applicable vacation/sick leave cash balance accounts if the employee is not covered by short-term or long-term disability. Additionally, if an employee is covered by either disability coverage, the employee may use accrued benefit time to supplement their disability benefit. Employees at the Clark County Health Care Center will be required to comply with the provisions of the applicable disability coverage. In order to use paid leave in conjunction with FMLA leave, employees must comply with our normal paid leave policies. However, if an employee does not meet qualifications to use paid leave that will not affect the employee's ability to use FMLA leave if the leave qualifies as FMLA leave.

BENEFITS DURING LEAVE

An employee's coverage under our group health plans (i.e., group health and dental coverage) will be maintained during the period of an FMLA leave as required by the Wisconsin and federal FMLA laws and in accordance with the applicable terms of the plans.

Employees who normally pay a portion of the premium for insurance coverage must continue to do so during the period of FMLA leave. If paid leave is substituted for unpaid leave, the employee's portion of the premium will be deducted from the employee's paycheck. For those employees on unpaid leave, payment arrangements must be made prior to the start of the leave, or as soon as practicable. A 30-day grace period will apply to premium payments, however, if payment has not been made timely, the employee's group health/dental insurance may be terminated.

If Clark County maintains the employee's insurance during an FMLA leave, and the employee does not return from FMLA leave, under certain circumstances, Clark County will have the right to recover the total cost of the insurance premiums paid during the employee's leave, as allowed by law.

Use of FMLA cannot result in the loss of any employment benefit that accrued prior to the start of the employee's leave. Other benefit accruals may be suspended during the period of the leave and will resume upon return to active employment. Check with the Payroll and Benefits Coordinator or the Personnel Manager regarding other benefit continuation provisions.

RETURNING TO WORK AT THE END OF LEAVE

Employees who return to work from FMLA leave within the timeframes protected by the FMLA laws will be returned to their former position or, if that position is no longer available, an equivalent position with equivalent pay, benefits and other employment terms. If an employee wants to return to work before his/her leave is to end, and work is available, the employee must notify Clark County at least 2 days prior to the desired return date. If the employee took FMLA leave for his/her own serious health condition, a fitness for duty certification will be required before the employee may return to work. In such cases, an employee's return will be delayed until such a certification is received.

An employee who asks to return to work after exceeding his or her maximum FMLA entitlement will be returned to his/her former position if the position is still open. If the position has been filled or eliminated, the employee may apply for any position which is open or which later becomes available. If no position is available, the employee will be placed on layoff status until such time as his/her application may result in a job offer. Should the employee fail to accept any offer, or should one year elapse from the date the employee's leave began, his/her employment will automatically terminate.

LIGHT DUTY

Clark County may consider allowing employees to return to work in a light duty or modified position for a maximum of 30 calendar days in order to assist the employee with recuperation and/or a work hardening program. Light duty assignments will be determined on a case-by-case

basis. These determinations shall be made by the applicable Department Head and the needs of the operations. If an employee is allowed to return to work in a light duty or modified position, the time worked in that capacity does not count towards the utilization of their FMLA entitlement.

BENEFIT ACCRUALS

Under both the federal and state versions of the Family and Medical Leave Acts, longevity and benefits do not accrue while on unpaid leave *unless so provided for by policy or labor contracts*. Health insurance WILL remain in effect during the term of the leave subject to the employee continuing to pay his/her share of the monthly premium(s)

FAILURE TO MEET POLICY REQUIREMENTS

If the employee fails to meet the requirements of this policy for family or medical leave, the request for leave will be denied until the requirements are met.

FAILURE TO RETURN TO WORK AT END OF FMLA-PROTECTED LEAVE

If the employee does not return to work at the end of his/her FMLA protected leave, the employee's rights under the federal and state FMLA laws, including the right to reinstatement, will no longer be in effect. In such a case, the employee's employment may be terminated.

EMPLOYER'S DUTIES AND ENFORCEMENT

It is unlawful for employers to interfere with, restrain, or deny the exercise of any right provided under FMLA or to discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

An employee may file a complaint or bring a lawsuit under the FMLA (see FMLA posters). The FMLA does not affect and federal or state law prohibiting discrimination, or supersede any state or local law or collective bargaining agreement which provides greater family or medical leave rights.